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AF
SUBJECT: AFGHANISTAN'S 2009 TIP QUESTIONNAIRE RESPONSE

REF: 08STATE132759

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123. (SBU) THE COUNTRY'S TIP SITUATION:

1A.

The sources of available information on trafficking include the Ministries of Interior, Justice, and Women's Affairs, the Attorney General's Office, the Supreme Court, the Afghanistan Independent Human Rights Commission (AIHRC) the Institute on Migration (IOM), UNICEF, UNIFEM, and numerous non-governmental organizations. IOM together with MOI is developing a G/TIP-funded common database for tracking and sharing TIP-investigation, arrest, prosecution information. General lack of governmental capacity and the pre-August 2008 absence of a specific TIP law made obtaining precise quantitative statistics difficult. Many government agencies and non-government organizations are involved in anti-TIP efforts, however, and it is often possible to obtain and compare data from several sources.

1B.

The country is a country of origin, transit, and destination for internationally trafficked men, women, and children. Trafficking also occurs within the country's borders, including areas under insurgent control. Afghan men are trafficked to Iran and Pakistan for forced labor and debt bondage. Most Afghans working in Iran went voluntarily and continue to work there voluntarily. Some Iranian employers, however, treated Afghans as indentured servants or otherwise did not pay wages. Afghan women and girls are trafficked internally and to Pakistan and Iran for forced or sham marriages and sexual exploitation. Afghan children are trafficked internally for forced labor, forced begging, debt bondage, sexual exploitation, forced marriage to settle debts or disputes, and service as child soldiers. Afghan children are also trafficked to Iran and Pakistan for forced labor and forced marriages. Afghan boys are trafficked to Pakistan for paramilitary training and to Iran and Pakistan as part of the drug smuggling industry. Afghanistan is also a destination for women and girls from Iran and Tajikistan trafficked for commercial sexual exploitation. Tajik women are also believed to be trafficked through Afghanistan to Pakistan and Iran for commercial sexual exploitation. There have been no dramatic changes in these patterns since the last TIP report.

1C.

Little information existed on the conditions into which victims are trafficked either internally or abroad.

1D.

Boys from poor families especially from border provinces were more at risk for being trafficked for forced labor, sexual exploitation, paramilitary service, and drug smuggling.

1E.

Little information existed on the average profile of traffickers. Traffickers used a variety of methods to approach victims, including the following: traffickers lured foreigners to Afghanistan under the pretense of high-paying employment opportunities in the reconstruction effort; instead the brokers forced the people into labor or sex work without pay. Some Afghan men forced their wives into prostitution. Parents in poor, rural parts of Afghanistan often willingly send their children with traffickers in the hopes that the children can gain employment and send money home. Many of these children end up in forced labor situations, particularly in Pakistan carpet factories. Some parents send their sons with traffickers who promised to enroll them in good schools in Pakistan when in fact the traffickers delivered these children to paramilitary training camps. Brokers increasingly use internet sites to attract women and girls, promise marriage to a wealthy husband, provide the women with forged travel documents and then sell the victims to a trafficker.

124. (SBU) SETTING THE SCENE FOR THE GOVERNMENT'S ANTI-TIP EFFORTS:

1A.

The government acknowledges that trafficking is a problem in the country.

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1B.

Afghanistan's anti-TIP law required the formation of a high commission for countering human trafficking, headed by the MOJ and composed of representatives from the Attorney General's Office, MOI, Ministry of Foreign Affairs (MFA), Ministry of Education, Ministry of Religious Affairs, Ministry of Women's Affairs (MOWA), Ministry of Public Health, AIHRC, and several other organizations. MOI has the primary responsibility for reporting and investigating cases and the most direct contact with victims. MOI has a counter-trafficking unit staffed with six IOM-trained officers dedicated to investigation of TIP cases. MOWA assists trafficking victims by providing legal and social counseling and referring victims to shelters. The Ministry of Labor and Social Affairs plays an informal lead role in working to combat trafficking for the purpose of forced labor, especially child trafficking for forced labor purposes. The Attorney General's Office is responsible for keeping statistics on prosecutions and convictions. MFA is responsible for addressing efforts against international trafficking.

1C.

The government recognizes the need to address trafficking and has shown political will, but Afghanistan is the fourth poorest country in the world and has faced the challenge of thirty years of war and an ongoing insurgency as it tries to address a full range of governance demands. Ministries and civil institutions are undeveloped and severely understaffed and resourced.

Funding to train police, judges, and prosecutors on identifying and investigating trafficking cases remains inadequate to address the need. Afghanistan's anti-TIP law provides for protection of victims by prohibiting prosecution of trafficking victims and by allowing foreign TIP victims to

remain legally in Afghanistan for at least six months. Although Afghanistan is unable to financially support TIP victims, it concurs with assistance provided to trafficking victims by international and national NGOs.

1D.

The government does not have the capacity to systematically monitor its anti-trafficking efforts; however, it is beginning to build infrastructure with the assistance of foreign embassies and NGOs. MOI's coordination with IOM to develop a database of TIP investigations and prosecutions will greatly assist this effort. Also, the MOJ-headed high commission for countering human trafficking is improving government-wide coordination on anti-TIP efforts.

125. (SBU) INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

1A.

Afghanistan has a law specifically prohibiting trafficking in persons including for sexual exploitation and labor. The law, entitled Countering Abduction and Human Trafficking, was enacted on July 15, 2008. The complete text of the law will be sent separately. The law covers both internal and transnational forms of trafficking. The law defines human trafficking as the "transfer, transit, employing, keeping and or giving a person in one's control for exploitation or by taking advantage of weak financial status or helplessness by spending or taking money or interest or other means of deception for winning the consent of the victim or of the person who is the guardian." The law defines exploitation as trafficking for "employment, buying, selling, sexual, criminal, making pornographic pictures and movies, armed fighting, forced labor, cutting or removal of body organs, medical or health experiments or forcing victims to perform other illegal acts." Prior to the enactment of this law, the government prosecuted traffickers under several statutes criminalizing various forms of kidnapping and sexual abuse.

1B.

The prescribed penalty for trafficking people for sexual exploitation is life imprisonment.

1C.

The prescribed penalty for trafficking for labor exploitation is "maximum term" imprisonment, which in practice is between

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8-15 years. Afghanistan's counter-trafficking law provides for punishment for organizers of crimes and dictates organizers shall receive the same punishment as the trafficker.

1D.

Article 429 of the Penal Code addresses rape case and sexual assault cases. This article provides for a maximum of seven years imprisonment in a rape case, unless aggravating circumstances, including prior rape convictions, exist.

1E.

The government prosecuted cases against human trafficking offenders during the reporting period as kidnapping or rape cases. The government is making a transition to acting based on the new trafficking law. The Attorney General's Office reported it prosecuted under kidnapping and rape statutes 62 cases meeting the definition of human trafficking, during the reporting period. The sentences ranged from 5-18 years imprisonment. Additional statistics regarding the breakdown by type of TIP and victims were not available.

1F.

Working through IOM, the USG provided anti-trafficking training for prosecutors, judges, and police, including MOI officials in the Afghan National Police criminal investigation division (CID). During the reporting period, approximately 1000 individuals received training.

¶G.

There were no instances of international investigations during the year. Afghanistan reported difficulty engaging Pakistani authorities effectively on investigating cross-border trafficking. Law enforcement and other government officials from the United Arab Emirates, Iran, Pakistan, and Afghanistan participated actively in an IOM-organized conference on combating international trafficking held in Kabul in October 2008.

¶H.

There were no extraditions of traffickers because Afghanistan does not have an extradition law. The lower house of the national assembly approved a draft extradition law, but the draft awaits action by the upper house.

¶I.

There are no reports of government involvement in trafficking. MOI stated no police officials have been arrested for involvement in trafficking. There are unconfirmed allegations (but no documentation) of corrupt Afghan National Police and Afghan Border Police officers being complicit in trafficking.

¶J.

Not Applicable

¶K.

The Penal Code does not specifically mention prostitution or punishment for prostitution. Prosecutors and courts normally considered prostitution as a form of adultery.

¶L.

Afghanistan does not contribute troops to international peacekeeping operations.

¶M.

Sex tourism has not been identified as a problem in Afghanistan.

¶26. (SBU) PROTECTION AND ASSISTANCE TO VICTIMS:

¶A.

Afghanistan's anti-TIP law prohibits the government from prosecuting victims of trafficking and mandates the government allow foreign national victims to remain in Afghanistan for at least six months. In the absence of appropriate family members, the government must refer victims

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to an appropriate social services organization and appropriate medical facilities. The law also requires, in the case of an Afghan national trafficked abroad, that the Afghan consulate or Embassy "comprehensively assist the victim including assistance with pursuing charges against the trafficker and claiming financial compensation for losses." The government regularly referred victims to NGO-run victim care facilities. The government did not forcibly deport any foreign victims of trafficking during the reporting period and regularly referred these victims to IOM and NGOs providing care services.

B.

Care facilities are run by NGOs with the government assisting in referring and transporting victims to these locations. NGOs running these care facilities reported good and regular coordination with the Ministries of Women's Affairs, Interior, and Foreign Affairs. Foreign victims have the same access to care as domestic trafficking victims do. Child victims are placed with NGO-run care facilities, government social service agencies, or in orphanages. The shelters are not specifically for trafficking victims. The country does not have specialized facilities for male victims.

C.

MOWA provides free legal services to victims of trafficking. Both MOWA and MOI refer trafficking victims to health care facilities providing free basic treatments. As is the case for a number of public services, the government connects international donors with NGOs offering services to victims of trafficking. The government lacks its own resources to provide services to victims of trafficking.

D.

Afghanistan allows foreign victims of trafficking to remain legally in Afghanistan for at least six months. The government did not forcibly deport any foreign victims of trafficking during the reporting period and regularly referred these victims to IOM and NGOs providing care services.

E.

The government does not provide this assistance.

F.

The government has a written policy to refer victims of domestic violence including victims of trafficking to NGO-run shelters. NGOs reported the government followed this policy in the overwhelming majority of instances.

G.

The precise number of trafficking victims identified during the reporting period was unavailable. One Kabul shelter received 32 victims during the last nine months of 2008-- the police referred 23, MOWA referred four, and other NGOs referred five. IOM reported that MOI referred the overwhelming majority of the 40 victims the organization assisted during the reporting period to date. The total number of victims assisted by non-government funded programs during the reporting period was not available.

H.

There was no formal identification system for high-risk persons. IOM provided training to MOI officers on how to recognize victims of trafficking in specific contexts, for example at airports, border crossings, and in cases of victims of sexual exploitation.

I.

Afghanistan's anti-TIP law prohibits the prosecution of victims of trafficking. The rights of victims were generally respected in practice, with some reports of problems. Treatment varies, depending on which security service is involved, the location, and the responsible official. In some cases, trafficking victims were jailed pending resolution of the case. Children who were trafficked were sometimes placed in orphanages until they could be reunited with their parents. Female victims are sometimes treated as criminals, both in cases where they fled their homes to escape forced marriages or domestic abuse and in cases of

prostitution. However, NGOs providing services to victims of trafficking noted a sharp decrease in these problems due to the formalized referral mechanism between MOI, and the various shelters.

¶J.

The government encouraged victims to assist in the investigation and prosecution of traffickers. Statistics were not available regarding how many victims assisted in the investigation and prosecution of traffickers. Afghanistan's anti-TIP law provides for a civil remedy for damages suffered related to TIP. The Afghan legal system does not have capacity to handle most civil proceedings adequately.

¶K.

Any such training is provided by international NGOs, not the government. There were no statistics on the number of trafficking victims assisted by embassies or consulates overseas, as Afghanistan's diplomatic representation is extremely limited and understaffed.

¶L.

Any such assistance was provided by international NGOs.

¶M.

IOM, UNICEF, UNIFEM, AIHRC, Women for Afghan Women, the Afghan Women's Skills Development Center, Voice of Afghan Women, Hagar International, and several additional NGOs provide assistance to trafficking victims. Services provided include shelter; legal, family, and psychological counseling; and vocational training. These organizations reported close coordination with MOI and MOWA.

¶27. (SBU) PREVENTION:

¶A.

Any such campaigns were carried out by IOs and NGOs with the support of the government. IOM conducted a campaign in 20 provinces that included posters in local languages, press conferences, and television ads. MOJ officials participated in a televised roundtable discussing and supporting the July 2008 anti-TIP law.

¶B.

The government lacked the capacity to monitor evidence of trafficking. Afghanistan's long porous borders made screening and border control difficult or impossible.

¶C.

Afghanistan's anti-TIP law established a high commission on countering human trafficking, requiring relevant government agencies to coordinate anti-TIP efforts. There is also a memorandum of understanding between the Ministries of Interior and Women's Affairs and NGOs and IOs providing services to TIP victims

¶D.

The government developed a national plan of action to address trafficking in 2004 that set the following goals for national anti-trafficking efforts: creation of an anti-trafficking law; training of law enforcement officials, judges and prosecutors to identify, investigate, and prosecute trafficking cases; development of a system to track and analyze trafficking trends; increasing border security; public awareness activities to educate the public on trafficking issues; provision of shelters and services to victims; training to Afghan diplomats abroad to identify and

assist trafficking victims; and development of a witness protection program for those who help police in combating trafficking. To date the Afghan government's largest accomplishment is adopting a comprehensive anti-TIP law which contains strong provisions for the protection of victims. There has also been NGO supported training for law enforcement, diplomatic, and NGO employees and scattered public awareness campaigns. There is an office within the Criminal Investigative Division of MOI that tracked, analyzed, and advised on kidnapping and child protection issues.

E:

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None

1F.

There is no evidence Afghan nationals participate in international child sex tourism.

Embassy point of contact for trafficking in persons issues is political officer Nell Robinson, email RobinsonNE@state.gov, phone number 0093-0700-108-166. This report was prepared by political officer Nell Robinson, an FS-04 officer. Preparation of this report took approximately 100 hours.

WOOD